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**JUL 20 2007**

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From: David S. Resnick Stephen R. Duly	Date: July 20, 2007	No. of Pages: 6 (including this page)	701826-055820
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Practitioner's Docket No. 701826-055820

PATENT

### **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Damha et al. Confirmation No.: 5859  
Application No.: 09/719,870 Group No.: 1633  
Filed: April 12, 2001 Examiner: Epps Ford, Janet L.  
For: ANTISENSE OLIGONUCLEOTIDE CONSTRUCTS BASED ON BETA-  
ARABINOFURANOSE AND ITS ANALOGUES NUCLEOTIDES

### **CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. § 1.8(a) and 1.10)**

I hereby certify that this correspondence:

1. Facsimile Cover Sheet (1 pg.);
2. Certificate of Facsimile (1 pg.);
3. Transmittal Form (1 pg.);
4. Reply to Notice of Improper Request for Continued Examination (1 pg.); and
5. Copy of Notice of Improper Request for Continued Examination (2 pp.).

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Date: July 20, 2007

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Hillary E. Allan

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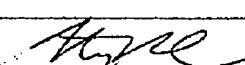
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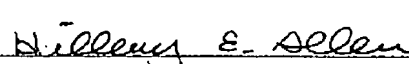
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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	09/719,870
		Filing Date	April 12, 2001
		First Named Inventor	Masad J. Damha
		Group Art Unit	1633
		Examiner Name	Epps Ford, Janet L.
Total Number of Pages in This Submission	6	Attorney Docket Number	701826-055820

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Declaration and Power of Attorney <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Inquiry <input type="checkbox"/> Application Data Sheet <input type="checkbox"/> Request for Corrected Filing Receipt with Enclosures <input checked="" type="checkbox"/> A self-addressed prepaid postcard for acknowledging receipt <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Fax Cover Page (1 pg.); Certificate of Facsimile (1 pg.); Copy of Notice of Improper Request for Continued Examination (2 pg.).
Remarks		<input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees required or credit any overpayments to Deposit Account No. 50-0850 for the above identified docket number.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	David S. Resnick (Reg. No. 34,235) / Stephen R. Duly (Reg. No. 56,183)
Signature	
Date	July 20, 2007

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]	
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July 20, 2007 Date	 Signature Hillary E. Allen Typed or printed name

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Application No.:	09/719,870	Group No.:	1633
Filed:	April 12, 2001	Examiner:	Epps Ford, Janet L.
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Date: July 20, 2007  
Hillary E. Allen

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REPLY TO NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

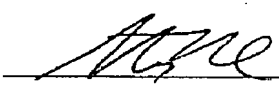
Dear Sir:

In response to the Notice of Improper Request for Continued Examination (RCE) mailed July 5, 2007, Applicants note that they did not attempt to file an RCE, but a Continuation, which is now Serial Number 11/818,133.

Should there be any question concerning this response or the application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of this application may be expedited.

Date: July 20, 2007

Respectfully submitted,

  
David S. Resnick (Reg. No. 34,235)  
Stephen R. Duly (Reg. No. 56,183)  
NIXON PEABODY LLP  
100 Summer Street  
Boston, MA 02110-2131  
Tel: (617) 345-6054 / 1270

10659957.1



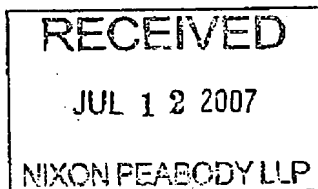
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JUL 20 2007

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,870	04/12/2001	Masad J. Damha	1770-206US FC	5859

50828 7590 07/05/2007  
DAVID S. RESNICK  
100 SUMMER STREET  
NIXON PEABODY LLP  
BOSTON, MA 02110-2131



EXAMINER

EPPS FORD, JANET L

ART UNIT	PAPER NUMBER
1633	

MAIL DATE	DELIVERY MODE
07/05/2007	PAPER

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The time period for reply, if any, is set in the attached communication.

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APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

# 09719870

DATE MAILED:

## NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 6-18-07 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☒ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

**A copy of this notice MUST be returned with any reply.**

Direct the reply and any questions about this notice to:

W. Phalps, Examining Group 1600

(703) 30 \_\_\_\_\_ 571 272-0548  
FORM PTO-2051 (Rev. 3/2001)

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